



MEMO ENDORSED

MICHAEL A. CARDOZO
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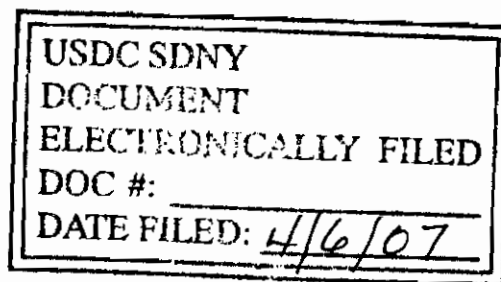
THE CITY OF NEW YORK
LAW DEPARTMENT
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April 4, 2007

BY FAX

The Honorable James C. Francis IV
United States Magistrate Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street - Room 1960
New York, New York 10007-1312



Re: Banno v. The City of New York, et al.
USDC SDNY 06 CV 2270 (KMK) (JCF)

Dear Judge Francis:

I write in response to Jeffrey Fogel's letter to the Court dated March 20, 2007, about which I previously wrote the Court on March 28 and about which I understand that Mr. Fogel again wrote this morning (I have not yet seen that letter). Mr. Fogel and I have spoken on several occasions since last week, including just moments ago, and we have now resolved all of the issues raised in his letter of March 20, subject to the Court's approval as set forth below.

First, the parties have agreed to conduct the five depositions that Mr. Fogel seeks on four separate days in May (May 3, 8, 15 and 17). In light of the fact that Mr. Fogel plans to relocate late in May, I have slotted two of Mr. Fogel's deponents into time slots previously occupied by deponents of interest to another plaintiffs' counsel. I have already assigned new dates to the substituted deponents. We have also agreed that defendants will take the deposition of plaintiff later in the schedule on a mutually agreeable date.

Second, in his March 20 letter, plaintiff requests additional information in response to plaintiff's written discovery requests (pursuant to plaintiff's March 6 memo) one week before any scheduled deposition. Defendants have no objection to supplementing their earlier discovery responses with any additional information that is available within the time frame requested and plaintiff has agreed to withdraw his motion on this issue for the time being.

Third, plaintiff apparently requests the disclosure of the identity of an undercover officer (Badge 6216) who witnessed events surrounding the arrest of the plaintiff for arson and several other felony charges on August 29, 2004. Defendants submit that there is no need at this time to disclose the identity of the undercover officer and plaintiff has agreed to withdraw his motion on that issue for the time being.¹

The parties, therefore, jointly request that the Court permit them to schedule depositions in this matter beyond May 1. The Court previously has allowed this on several occasions. If this meets with Your Honor's approval, would you please "so order" it? Thank you. U

Very truly yours,


James Mirro

cc: Jeffrey Fogel, Esq. (by fax)

4/5/07
Application granted.
SO ORDERED.
James C. Francis IV
VSMJ

¹ That officer, to whom the parties have referred as "Badge 6216," is represented by this office and has complied with all discovery requests directed to the City. The parties have scheduled his deposition. Disclosure of his identity will not advance the prosecution of this case. At the same time, it would end the undercover career of that officer and seriously disrupt the law enforcement operations in which he is currently (and has previously) been involved. Defendants are prepared to submit formal briefing to the Court to prevent the disclosure of the identity of that officer and hereby expressly request an opportunity to do so before the Court were to order any disclosure.